



Arizona Medical Board

9545 East Doubletree Ranch Road • Scottsdale, Arizona 85258

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FINAL MINUTES FOR REGULAR SESSION MEETING

Held on Wednesday, August 5, 2015

9535 E. Doubletree Ranch Road • Scottsdale, Arizona

Board Members

Richard T. Perry, M.D., Chair

James M. Gillard, M.S., M.D., F.A.C.E.P., F.A.A.E.M., Vice-Chair

Jodi A. Bain, Esq., Secretary

Marc D. Berg, M.D.

Donna S. Brister

R. Screven Farmer, M.D.

Gary R. Figge, M.D.

Robert E. Fromm, M.D., M.P.H.

Paul S. Gerding, Esq.

Lois E. Krahn, M.D.

Edward G. Paul, M.D.

Wanda J. Salter, RN

GENERAL BUSINESS

A. CALL TO ORDER

Dr. Perry called the meeting to order at 8:01 a.m.

B. ROLL CALL

The following Board members were present: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

C. CALL TO THE PUBLIC

Dr. Perry addressed the public prior to the start of the Call to the Public with the following statement: In accordance with the Open Meeting Law, the Board has a civility policy that prohibits any type of disorderly conduct that disrupts the Board from carrying out its business. Those violating this policy will be asked to modify their behavior and act civilly. If the disorderly conduct continues, the person may be removed from the meeting room.

Individuals who addressed the Board during the Call to the Public appear beneath the matters referenced.

D. EXECUTIVE DIRECTOR'S REPORT

- **Review, Discussion and Possible Action on Approval of 2016 Meeting Dates**
Board members reviewed the 2016 meeting dates and noted that if any conflicts arise from individual Board members, they will contact the Executive Director directly.
- **Review, Discussion and Possible Action on Approval of FY 2014-2015 Annual Report**
Ms. McSorley pointed to some of the highlights in the report that the Board should consider. Ms. McSorley reported to the Board that there has been a 26.78% increase in investigative cases opened between 2014 and 2015, and noted this has caused an

increase in work for the Board and staff. Ms. McSorley also noted that the Board held 33 meetings in the last Fiscal Year further leading to an increased workload. Ms. McSorley informed the Board that there were 33 temporary employees utilized by the Board, and that out of the 33, 19 had left the employ of the Board leading to a loss in productivity in terms of training of the temporary employees by fulltime employees. Ms. McSorley stated that staff was requesting additional monies to offset the amount of temporary employees utilized in the last Fiscal Year. Ms. Bain clarified that this request would not be increasing the number of Board staff, but that it would be replacing temporary employees with permanent employees.

MOTION: Dr. Farmer moved to approve the FY 2014-2015 Annual Report.

SECOND: Ms. Brister

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

- **Review, Discussion and Possible Action on Approval of FY 2016-2020 Strategic Plan**

Ms. McSorley discussed the goals listed in the FY 2016-2020 Strategic Plan, including initiatives to promote public awareness and public outreach activities. Ms. McSorley requested that Board members consider different ways to attain these goals. Ms. Bain added that this was an issue in the past, and that it has been difficult to staff and manage due to a decline in Board staffing levels.

MOTION: Ms. Bain moved to approve the FY 2016-2020 Strategic Plan.

SECOND: Dr. Farmer

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

- **Review, Discussion and Possible Action on Approval of FY 2017 Budget**

Ms. McSorley presented the FY 2017 Budget to the Board for their consideration and approval. She noted that the Budget listed three decision packages for the Board to consider. Board members discussed the information presented, noting the request for approval to proceed with the proposed data loss recovery project. James Gentile, the Board's Chief Information Officer, discussed the Board's Information Technology Office's current staffing concerns. Mr. Gentile explained that the bringing in a consultant would be helpful to the Board in putting together a detailed proposal regarding a new database system. Mr. Gentile further clarified that the data loss recovery project is completely separate from the proposal to move to a new database system. Dr. Fromm asked if Board staff had reached out to other agencies with similar data responsibilities, and Mr. Gentile confirmed that outreach did occur. The Board had several concerns relating to the Board's contract with GL Solutions. Mr. Gentile explained that the Information Technology Office is very involved in looking for viable solutions to the Board's specific needs. The Board requested that Board staff obtain additional information and comparative data before making a final decision on package number three.

MOTION: Dr. Gillard moved to approve the proposed FY 2017 Budget, including Decision Packages 1 and 2.

SECOND: Dr. Perry

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

- **Review and Discussion on GACCP Look Back Project**

Ms. McSorley reported to the Board that GACCP was granted a four-month extension to complete the Look Back Project. Board members requested an update be provided on a monthly basis.

- **Update on Progress of 5 Year Rule Review and Request for Relief from Rulemaking Moratorium**

Ms. McSorley noted that Board staff has worked with a rule writer to draft language for the Joint Legislation and Rules Committee to consider prior to send the draft to the full Board for consideration.

- **Board Member Training Update**

Ms. McSorley noted that additional training topics would be provided at the Board's Offsite Planning Meeting.

- **Review and Discussion Regarding Proposed Offsite Meeting Agenda Items**

Ms. McSorley reported to the Board the list of topics proposed for the Board's Offsite Planning Meeting Agenda.

E. CHAIR'S REPORT

- **Update Regarding Biannual Joint Arizona Medical Board (AMB) and Arizona Regulatory Board of Physicians Assistants (ARBoPA) Officers Meeting**

Dr. Perry updated the Board regarding the Joint Officers Meeting and requested that Board members contact Board staff regarding any issues they would like discussed at the next meeting.

F. LEGAL ADVISOR'S REPORT

- Use of Online Medical License Verification
- Medical Board Regulation of Expert Witness Testimony

Carrie Smith, Assistant Attorney General (AAG), presented the above two matters to the Board. Board members directed Board staff to add Medical Board Regulation of Expert Witness Testimony to the Board's Offsite Planning Meeting Agenda.

- Update Regarding CV2014-054509, Rachel Remes, AAG
- Update on Case 2:15-cv-01022-PHX-SPL, John Tellier, AAG

MOTION: Dr. Perry moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3) for the two items listed above.

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 9:55 a.m.

The Board returned to Open Session at 10:18 a.m.

The Board took no action during Executive Session.

G. REVIEW AND POSSIBLE DISCUSSION REGARDING THE ADMINISTRATION SUBCOMMITTEE REPORT

- **Review, Discussion and Possible Action Regarding Recommendation for the Board to Establish a Standing Licensing Committee**

Ms. Bain presented this matter to the Board. Ms. Bain discussed the creation of a licensing subcommittee to work with the staff and Executive Director in reviewing the Executive Director's case dismissals. AAG Smith clarified that the Standing Licensing Committee would revolve only around the Board's consideration of licensing cases. Dr. Perry suggested that the topic be agendaized for the Board's Offsite Planning meeting.

H. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING REQUEST FOR INFORMATION FOR CREDENTIALING AND VERIFICATION PROCESS RELATING TO LICENSURE

AAG Smith presented this matter to the Board. Board members expressed concern regarding the outsourcing of the Licensing Department and noted that the Board intends to maintain the Licensing Department.

MOTION: Dr. Krahn moved to approve the draft RFI for credentialing and verification process related to licensure.

SECOND: Ms. Salter

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

I. This item was removed from the Board's agenda.

J. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING DECORUM AND PARTICIPATION DURING BOARD MEETINGS

MOTION: Dr. Perry moved for the Board to enter into Executive Session pursuant to A.R.S. § 38-431.03(A)(3).

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 8:49 a.m.

The Board returned to Open Session at 9:16 a.m.

The Board took no action during Executive Session.

MOTION: Dr. Farmer moved to adopt a proposed civility policy statement as follows, to be read at the opening of the Board's Call to the Public: "In accordance with the Open Meeting Law, the Board has a civility policy that prohibits any type of disorderly conduct that disrupts the Board from carrying out its business. Those violating this policy will be asked to modify their behavior and act civilly. If the disorderly conduct continues, the person may be removed from the meeting room."

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Board members discussed the Civility Policy Statement and noted that the public could submit comments in writing to Board staff regarding matters not listed on the agenda.

MOTION: Dr. Farmer moved for the Chairman to meet with the Executive Director to formulate policies in regard to the Call to the Public to facilitate an effective way for the public to be heard and to assure the safety and respectful treatment of all involved.

SECOND: Dr. Gillard

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

K. DISCUSSION AND POSSIBLE ACTION REGARDING COMMUNITY AND CONSTITUENT RELATIONS, TRAINING AND MEDIA ASSISTANCE

Board members directed staff to reagendaize this matter for the Board's Offsite Planning meeting.

L. APPROVAL OF MINUTES

MOTION: Dr. Figge moved to approve the May 21, 2015 Special Teleconference Meeting, including Executive Session.

SECOND: Dr. Farmer

VOTE: 10-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

LEGAL MATTERS

M. REVIEW, CONSIDERATION AND POSSIBLE ACTION ON PROPOSED BOARD ORDER ARISING FROM ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION

1. MD-14-0396A, WENDY E. COHEN, M.D., LIC. #15096

Dr. Cohen was not present during the Board's consideration of this matter. AAG Smith was present on behalf of the State. AAG Smith noted that this matter stemmed from a notice stated that Dr. Cohen was disciplined in another jurisdiction while her license was on Inactive status in Arizona. AAG Smith clarified that Arizona law requires that a licensee not be practicing in another state while their Arizona license is on Inactive status. AAG Smith noted that Dr. Cohen did not appear for the Formal Hearing and stated that the State requested that the Board adopt and approve the recommended ALJ decision with one minor change in the opening paragraph to reflect that Dr. Cohen did not appear before the Board.

Board members expressed concern with the interpretation of the Inactive status statute and discussed whether this matter rose to the level of revocation. AAG Smith clarified that in order to request that a license be placed on Inactive status, the licensee is required to affirm that he/she is not practicing medicine in any other jurisdiction. Because Dr. Cohen's license was Inactive, the Board was not notified of actions being taken against her license in other jurisdictions. AAG Smith noted that the State's position is that this matter is not only a disciplinary issue, but also calls to question whether the Board can effectively regulate Dr. Cohen.

Board members discussed the issue of the State of California revoking Dr. Cohen's license and uncovering other ethical issues, and questioned whether the Board is required to mirror the actions of other states. AAG Munns stated that the Board is the final arbiter of any violation of Arizona statutes, but that they may consider actions taken by other jurisdictions in determining the level of Board sanction.

MOTION: Dr. Gillard moved to reject the ALJ's recommended decision.

Dr. Fromm noted that there was a finding of unprofessional conduct and commented that the Findings of Fact were accurate. Dr. Gillard opined that he agreed with the ALJ's Findings of Fact, but he did not agree with the recommendation to revoke Dr. Cohen's license.

Dr. Gillard withdrew his motion.

MOTION: Ms. Bain moved to adopt the ALJ's recommended Findings of Fact.

SECOND: Dr. Fromm

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Gillard moved to adopt the ALJ's recommended Conclusions of Law.

SECOND: Dr. Krahn

VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Board members discussed what the licensing requirements are for a licensee on Inactive status. AAG Munns clarified that licensees holding Inactive licenses with no ongoing Continuing Medical Education may have to prove that they are safe to practice medicine before the Board reactivates the license per statute. Ms. Bain questioned whether a suspension was warranted to ensure that Dr. Cohen not practice in Arizona. Dr. Gillard spoke against the suspension noting that Dr. Cohen would have to request reinstatement of her license before the Board with an inactive license and reiterated that he did not find that this matter rose to the level of revocation and moved for a Letter of Reprimand.

MOTION: Dr. Gillard moved to reject the ALJ's recommended Order for license Revocation and issue the physician a Letter of Reprimand.

SECOND: Dr. Fromm

ROLL CALL: Roll Call vote was taken and the following Board members were in favor of the motion: Dr. Gillard, Dr. Berg, and Dr. Fromm. The following Board members were against the motion: Dr. Perry, Ms. Bain, Ms. Brister, Dr. Farmer, Dr.

Figge, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 3-yay, 8-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

Board members expressed concern that Dr. Cohen failed an ethics exam in California, did not appear for the Formal Hearing, and did not submit any documentation advocating for herself. Dr. Farmer stated that there has to be more going on with Dr. Cohen as the initial action stemmed from a billing matter then ended up at revocation with other state actions. Ms. Bain stated that a suspension would protect the public and require Dr. Cohen to request reinstatement from the Board and moved to issue a ten-year suspension.

MOTION: Ms. Bain moved to reject the ALJ's recommended Order for license Revocation and issue the physician a Board Order for License Suspension. Dr. Cohen shall be prohibited from practicing any form of medicine in the State of Arizona for a period of ten years, unless the Board approves a request for reinstatement by licensee.

SECOND: Dr. Gillard.

ROLL CALL: Roll Call vote was taken and the following Board members were in favor of the motion: Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board members were against the motion: Dr. Perry and Dr. Farmer. The following Board member was absent: Mr. Gerding.

VOTE: 9-yay, 2-nay, 0-abstain, 0-recuse, 1-absent

MOTION PASSED.

MOTION: Dr. Berg moved to adopt the form of order as amended to reflect the Board's modification of the recommended decision.

SECOND: Ms. Brister.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Board members asked that a review and discussion of the statute concerning Inactive licenses be placed on a future agenda.

N. FORMAL INTERVIEWS

1. MD-13-0787A, TONG LI, M.D., LIC. #27967

Dr. Li appeared with legal counsel, Dee Dee Holden, for continuation of her October 1, 2014 Formal Interview. Board staff summarized that six additional cases were reviewed and that the Board's Medical Consultant (MC) identified multiple documentation issues in addition to the previously identified concerns relating to the use of non-FDA approved facial filler and allowing a non-Arizona licensed nurse practitioner to perform healthcare tasks.

In her opening statement, Ms. Holden informed the Board that Dr. Li was an independent contractor with the med spa and she was not responsible for the care provided by the nurse involved. Ms. Holden reported that Dr. Li discontinued use of the treatment in question.

When asked, Dr. Li stated she had diligently researched the filler that was used at the med spa, and reported that she personally administered injections of the non-FDA approved filler for the six patients reviewed by the Board. Dr. Li stated that she discussed the product with the patients, and that she trusted her colleague Dr. Robledo's medical judgment in ordering the facial filler. Dr. Li stated that it was her understanding that the FDA regulates and controls medical devices and drugs with regard to manufacturing and distributing, and that the FDA provides guidance to practitioners. Dr. Li stated that the FDA guidance is not meant to take away medical judgment of practitioners when choosing certain treatments for patients. Dr. Li admitted that she used the product with

knowledge that it came from Mexico; however, she did not believe it would be inappropriate to use. Dr. Li stated that she was not aware of any other patients receiving the facial filler, and was not aware of any patients who may have had adverse reactions to the product.

Dr. Farmer called Dr. Li's attention to additional information submitted by the complainant in this case. The additional information included a copy of an Arizona Corporation Commission 2013 Annual Report showing that Dr. Li was a shareholder in the med spa. Dr. Li stated that she did not sign any paperwork authorizing the use of her name, and that the information was incorrect. Dr. Farmer pointed out that there was a corrected Arizona Corporation Commission Annual Report for 2014 in the materials. Dr. Fromm noted that there was no corrected 2013 report. Dr. Li stated that when she appeared on a radio show, she did not correct a statement that she was offered a partnership; however, it was not her intention to have her involvement with the med spa incorrectly presented.

Dr. Perry asked Dr. Li if the standard of care included using non-FDA approved medications. Dr. Li responded that it is up to physicians to use their clinical judgment in using any medications. Dr. Perry stated that if medications or procedures are investigational, obtaining consent from the patient beforehand is important. Dr. Li stated that she told some of the patients the product was from outside of the United States and that she told all of them it was not FDA-approved.

In her closing statement, Dr. Li stated that she acted in the best interest of the patients. Dr. Li pointed out that she is board certified in anesthesiology, and in all of her years of practice she had never had a patient complaint made against her. She commented that she believed she met the standard of care and requested that this matter be dismissed. Ms. Holden reiterated that Dr. Li did not cause any harm to patients and asked the Board to consider Dr. Li's role in the med spa separately from the role of her colleague, Dr. Robledo.

Board members expressed concern regarding the non-FDA approved filler that was administered and agreed that there was a violation of A.R.S. § 32-1401(27)(q). Board members noted that the Arizona Corporation Commission documents were not particularly concerning. Dr. Farmer noted that Dr. Li's statements with regard to her knowledge of the nurse's licensure status were weak, and recommended that the Board consider each noted statutory violation separately. Board members discussed Dr. Li's responsibility regarding the non-Arizona licensed nurse. Dr. Farmer noted that he believed there should be a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(cc), but that in his opinion, the violation did not rise to the level of discipline and recommended issuing an Advisory Letter.

MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(cc) "maintaining a professional connection with or lending one's name to enhance or continue the activities of an illegal practitioner of medicine."

Ms. Bain questioned if the standard of care required physicians to disallow non-Arizona licensed practitioners to perform healthcare tasks under physician supervision, should the Board consider disciplinary action. Dr. Gillard observed that the initial complaint was filed regarding the administration of the filler by a non-Arizona licensed nurse who was not under Dr. Li's supervision, but that additional information revealed that Dr. Li also administered non-FDA approved filler to other patients. Dr. Farmer noted the discussion of supervision should be tabled.

Dr. Farmer tabled this motion.

MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(q) "any conduct that is or might be harmful or dangerous to

the health of the patient or the public.” Dr. Li deviated from the standard of care by knowingly prescribing a non-FDA approved medication, and by administering a non-FDA approved medication which was from an unknown source from outside of the United States with unverified quality and purity, and with no knowledge of how it was obtained or manufactured. There was potential for harm in the use of a non-FDA approved medication that may potentially result in disfigurement and death.

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Farmer noted that there were several aggravating factors, including Dr. Farmer stated that he found it mitigating that Dr. Li did a significant amount of research regarding the filler, but that the matter did rise to the level of discipline. Dr. Fromm stated that he found it mitigating that Dr. Li discontinued the use of the product in her practice.

MOTION: Dr. Farmer moved to draft Findings of Fact, Conclusions of Law and Order Letter of Reprimand and Probation. Within six months, complete a minimum of 20 hours of Board staff pre-approved category 1 CME in the areas of legal drug prescribing, ethics, human subjects studies, and institutional review board investigation of drugs. The CME hours shall be in addition to the hours required for license renewal. The Probation shall terminate upon proof of successful completion of the CME submitted to Board staff.

SECOND: Dr. Krahn

ROLL CALL: Roll Call vote was taken and the following Board members were in favor of the motion: Dr. Perry, Dr. Gillard, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was against the motion: Ms. Bain. The following Board member was absent: Mr. Gerding.

VOTE: 10-yay, 1-nay, 0-recuse, 0-abstain, 1-absent.

MOTION: Dr. Farmer moved for a finding of unprofessional conduct in violation of A.R.S. 32-1401(27)(cc) maintaining a professional connection with or lending one’s name to enhance or continue the activities of an illegal practitioner of medicine

SECOND: Ms. Bain

Board members discussed the responsibility of Dr. Li’s role in the supervision of the non-Arizona licensed nurse.

MOTION: Ms. Bain moved for the Board to enter into Executive Session.

SECOND: Dr. Perry

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

MOTION PASSED.

The Board entered into Executive Session at 11:58 am.

The Board returned to Open Session at 12:09 pm.

No action was taken by the Board during Executive Session.

ROLL CALL: Roll Call vote was taken and the following Board members were against the motion: Dr. Perry, Dr. Gillard, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member abstained: Ms. Bain. The following Board member was absent: Mr. Gerding.

VOTE: 0-yay, 10-nay, 0-recuse, 1-abstain, 1-absent.

MOTION FAILED.

Dr. Farmer directed staff to look into the Board’s duty to report potential violations of federal law.

2. MD-14-0318A, DENNIS L. LITTLE, M.D., LIC. #13890

This matter was pulled from the Board’s agenda.

O. FORMAL INTERVIEWS

1. MD-14-0857A, BENJAMIN H. VENGER, M.D., LIC. #20605

Dr. Venger appeared with legal counsel, Mr. Paul Giancola. Board staff summarized that a complaint was received regarding Dr. Venger's prescribing and noted that the Outside Medical Consultant ("OMC") found that the standard of care was met with regard to chronic pain management, but noted concerns regarding Dr. Venger's medical recordkeeping.

Dr. Venger stated that SS was one of the first patients he treated while learning the new electronic medical record ("EMR") system noting that he used paper charts and transcription services prior. Dr. Venger relayed that he worked with his EMR vendor to improve structure and functionality. Dr. Venger noted that he has attended the PACE medical record keeping course and has subsequently had five of his charts audited by PACE and were rated satisfactory.

Dr. Gillard questioned when Dr. Venger completed the PACE course and chart reviews and Dr. Venger stated that he took the course in April 2015 and received 17 CME credits. Dr. Gillard inquired as to why Dr. Venger declined the Consent Agreement for Non-Disciplinary CME and Dr. Venger explained that he elected the formal interview, as he believed he had satisfied the CME requirements by attending PACE. Dr. Gillard stated that the OMC did not identify a problem with the prescribing and noted the unfortunate suicide of the patient.

In closing, Mr. Giancola, stated that Dr. Venger's EMR met the record requirements and noted that the patient received adequate care and there was no deviation found in his prescribing.

Dr. Gillard noted that Dr. Venger subsequently completed PACE and chart reviews. Board staff noted that Dr. Venger had two prior advisory letters for inadequate medical records and discussed that the record issues had occurred around the same time. Ms. Smith stated that it would be up to the Board to determine whether they believe any additional remedial action is necessary. Dr. Farmer stated that he agreed with SIRC's recommendation for an Advisory Letter.

MOTION: Dr. Farmer moved to issue an Advisory Letter per SIRC's recommendation.

SECOND:

Dr. Farmer withdrew his motion.

Dr. Gillard noted that SIRC's recommendation was done prior to Dr. Venger completing the PACE course and chart review. Dr. Gillard stated that he found no violations of unprofessional conduct and moved for dismissal.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Figge

Dr. Gillard withdrew his motion.

Dr. Farmer stated questioned whether the Board could issue an Advisory Letter with CME without finding a violation and Ms. Smith clarified that it is preferred that a violation be found if ordering CME.

MOTION: Dr. Farmer moved to issue an Advisory Letter for failure to review previous medical records and for inadequate monitoring of a pain management patient. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Krahn

ROLL CALL: Roll Call vote was taken and the following Board members were in favor of the motion: Ms. Bain, Dr. Farmer, Dr. Krahn, and Ms. Salter. The following Board members were against the motion: Dr. Perry, Dr. Gillard, Dr. Berg, Ms. Brister, Dr. Figge, Dr. Fromm, and Dr. Paul. The following Board member was absent: Mr. Gerding
VOTE: 4-yay, 7-nay, 0-abstain, 0-recuse, 1-absent.
MOTION FAILED.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Paul

ROLL CALL: Roll Call vote was taken and the following Board members were in favor of the motion: Dr. Perry, Dr. Gillard, Dr. Berg, Ms. Brister, Dr. Figge, Dr. Fromm, and Dr. Paul. The following Board members were against the motion: Ms. Bain, Dr. Farmer, Dr. Krahn, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 7-yay, 4-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-14-0914A, MANZOOR A. TARIQ, M.D., LIC. #23742

Dr. Tariq appeared with legal counsel, Mr. Rick DeLo. Board staff summarized that Dr. Tariq failed to disclose that his hospital privileges in Missouri had been placed on precautionary suspension in 2008 and 2011 on his 2010 and 2012 renewal applications.

Dr. Tariq stated that the failure to disclose was an oversight on his part as the question was not clear to him, noting that he answered affirmatively on his 2014 renewal about the suspension.

Dr. Fromm questioned Dr. Tariq's misunderstanding of the renewal applications. Dr. Tariq read aloud questions five and six on the renewal application. Dr. Fromm questioned Dr. Tariq's interpretation of restriction versus suspension and Dr. Tariq stated that looking back he should have answered "Yes" and noted that the most recent renewal clarified whether action was taken against his hospital privileges.

Board staff clarified that Dr. Tariq did report his suspension in 2008, but failed to report the suspension from 2011. Dr. Gillard asked if Dr. Tariq had reported the hospital actions and Dr. Tariq stated that he reported the action to the Missouri Board who gave him a letter with no action taken.

In closing, Dr. Tariq stated that he would never hesitate to disclose answers in the future. Mr. DeLo stated that Dr. Tariq has no prior action and noted that this was an honest mistake. Mr. DeLo explained that Dr. Tariq would not have answered affirmatively in 2014 if he was trying to hide information and noted that the language from 2010 and 2012 renewal was not very clear.

Dr. Fromm stated that he had trouble believing Dr. Tariq's statement that healthcare facility did not mean hospital; however, he noted that Dr. Tariq did report the suspensions in his 2014 renewal and moved for no finding of unprofessional conduct.

MOTION: Dr. Fromm moved for no finding of unprofessional conduct.

SECOND: Dr. Berg

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

MOTION PASSED.

MOTION: Dr. Fromm moved for dismissal.

SECOND: Dr. Berg

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

MOTION PASSED.

3. MD-14-0911A, RAMIN ETEBAR, M.D., LIC. #42938

Dr. Etebar appeared without counsel. Board staff summarized that Dr. Etebar, on his 2014 renewal application, disclosed that he had action taken by the Nevada Medical Board for failing to maintain adequate records. Dr. Etebar entered into a settlement agreement with the Nevada Board for a fine and CME. Board staff noted that Dr. Etebar completed the Nevada requirements as of June 2015.

Dr. Etebar explained that the varicose vein treatment provided to the patient was part of a training session with the manufacturer so he knows that all paperwork was completed. Dr. Etebar stated that when he closed his practice eight months later his charts were converted to EMR and the paper charts were scanned, but the consent was lost as it was an insert in the record; however, the operative reports and other records were included. Dr. Etebar stated that he had to pay \$5,000 dollars in fines and complete 17 hours of CME at UC Irvine School of Medicine. Dr. Etebar noted that as of June the compliance case was closed and his license was renewed for two years.

Dr. Paul questioned Dr. Etebar's practice of vein treatments and Dr. Etebar reported that it was not a new procedure for him but he has closed that practice and is working as an internal medicine provider in Fort Mohave. Dr. Gillard questioned whether the Nevada action was disciplinary and Board staff confirmed that both the fine and CME are considered disciplinary action. Dr. Fromm questioned whether the consent was the only item missing and Dr. Etebar explained that most of the other records were there except for the consent. Ms. Bain inquired about the options the Board has when the licensee has complied with another states requirements.

In closing, Dr. Etebar requested that the Nevada action be deemed adequate discipline.

Dr. Figge noted that Dr. Etebar made a comment about double jeopardy and he stated he agreed. Dr. Paul was in agreement and moved for finding unprofessional conduct.

MOTION: Dr. Paul moved for a finding of unprofessional conduct in violation of A.R.S. § 32-1401(27)(o) - Action that is taken against a doctor of medicine by another licensing or regulatory jurisdiction due to that doctor's mental or physical inability to engage safely in the practice of medicine, the doctor's medical incompetence or for unprofessional conduct as defined by that jurisdiction and that corresponds directly or indirectly to an act of unprofessional conduct prescribed by this paragraph. The action taken may include refusing, denying, revoking or suspending a license by that jurisdiction or a surrendering of a license to that jurisdiction, otherwise limiting, restricting or monitoring a licensee by that jurisdiction or placing a licensee on probation by that jurisdiction.

SECOND: Dr. Gillard

Dr. Fromm stated that finding of unprofessional conduct is a stretch and spoke against the motion. Other Board members concurred and noted that there may not be clear and convincing evidence regarding the missing records. Ms. Bain questioned whether a finding of unprofessional conduct requires a finding of a violation.

VOTE: 0-yay, 11-nay, 0-abstain, 0-recuse, 1-absent.

MOTION FAILED.

MOTION: Dr. Gillard moved to dismiss.

SECOND: Dr. Berg

VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

CONSENT AGENDA

P. CASES RECOMMENDED FOR DISMISSAL

MOTION: Dr. Berg moved to dismiss item numbers 1-10, 12, 14 and 15.

SECOND: Dr. Fromm

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

1. MD-14-0621A, S. JAFFERY KAZI, M.D., LIC. #31610
RESOLUTION: Dismiss.
2. MD-15-0682A, LISA N. KRANS DORF, M.D., LIC. #47273
RESOLUTION: Dismiss.
3. MD-14-1507A, PAUL W. LA PRADE, M.D., LIC. #13306
RESOLUTION: Dismiss.
4. MD-15-0255A, RICHARD D. ROSSIN, M.D., LIC. #36207
RESOLUTION: Dismiss.
5. MD-15-0137A, JAMES J. COONEY, M.D., LIC. #37747
RESOLUTION: Dismiss.
6. MD-15-0295A, NANCY M. COVINGTON, M.D., LIC. #45337
RESOLUTION: Dismiss.
7. MD-15-0151A, KHUSHAL D. PATIL, M.D., LIC. #40340
RESOLUTION: Dismiss.
8. MD-15-0139A, MANISH SAHNI, M.D., LIC. #34926
RESOLUTION: Dismiss.
9. MD-15-0412A, JAMES T. COURTNEY, M.D., LIC. #44219
RESOLUTION: Dismiss.
10. MD-14-0391A, YOON M. HONG, M.D., LIC. #41210
RESOLUTION: Dismiss.

11. MD-14-1566A, STEVEN P. HAUBEN, M.D., LIC. #25561
Board staff summarized that Dr. Hauben's California medical license was revoked in 2014 based on a Letter of Reprimand that was issued by the Board in October 2013. Board members recognized that the California action was reciprocal and involved an additional violation of failure to appear for the hearing. Board members noted that Arizona's statutes do not require the licensee's presence at a Formal Hearing.

MOTION: Dr. Paul moved to dismiss the case.

SECOND: Dr. Gillard

VOTE: 10-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

12. MD-15-0683A, WADDAH K. HAJJA, M.D., LIC. #46306
RESOLUTION: Dismiss.

13. MD-14-1599A, RICHARD J. HARDING, M.D., LIC. #23337
Dr. Perry was recused from this matter. Dr. Gillard noted that the patient had several medical problems and inquired with Dr. Wolf how the vessel could rupture while assisted by doppler ultrasound and fluoroscopy. Dr. Wolf confirmed that the procedure was done under fluoroscopic control and Dr. Harding interpreted the x-ray as showing the line in good position and noted that a subsequent CT scan and x-rays indicated good positioning as well. Dr. Wolf commented that it did not appear that anyone identified the incorrect location of the line until the autopsy was performed. Dr. Fromm commented that he could see how the film would be interpreted as normal.

MOTION: Dr. Krahn moved to dismiss the case.

SECOND: Dr. Berg

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.
MOTION PASSED.

14. MD-14-1353A, MICHAEL L. RITCHEY, M.D., LIC. #34124
RESOLUTION: Dismiss.

15. MD-14-0686A, CHARLES A. RICHARDSON, M.D., LIC. #41822
RESOLUTION: Dismiss.

Q. CASES RECOMMENDED FOR ADVISORY LETTERS

MOTION: Dr. Figge moved to issue Advisory Letters in item numbers 8, 9, 11, 13, 16, 17, 19, 20, and 22-26.

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-14-0510A, BRUCE M. HECHT, M.D., LIC. #37652

Board staff summarized that Dr. Hecht was found to have deviated from the standard of care by failing to timely provide the patient's mother with the holter monitor results. The consultant was also concerned with Dr. Hecht's practice of having untrained office staff relay results to parents or patients.

Dr. Farmer questioned who was at fault but stated that there were mitigating factors in that there was no adverse outcome. Dr. Farmer noted that he sympathized with the frustration of the parent; however, there was a person who called and although the consultant took issue with the use of non-trained personnel to follow-up on test results, it is a common practice and moved to dismiss the case. Dr. Gillard supported the motion, stating that there was a system problem and noted that the results were benign. Ms. Brister questioned whether someone would have followed-up if there were ventricular concerns. Dr. Gillard clarified that the results were read, the issue is that the results were relayed to the mother. Dr. Farmer stated that it is not clear what was relayed to the mother but it is mitigating that Dr. Hecht has taken steps to reduce interpersonal communication problems.

MOTION: Dr. Farmer moved to dismiss the case.

SECOND: Dr. Fromm

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-14-1185A, JYOTSNA RAVI, M.D., LIC. #32757

Dr. Ravi addressed the Board during the call to the public. Dr. Fromm stated that he knows Dr. Ravi, but that it would not affect his ability to adjudicate the case.

Dr. Fromm stated that this case concerns the reporting of positive result regarding a patient biopsy, which demonstrated H. Pylori. The patient missed two follow-up appointments then the office sent a letter out to have the patient follow-up. Dr. Fromm noted that the result would most likely need to be treated, unless the patient was asymptomatic and moved to dismiss the case.

MOTION: Dr. Fromm moved to dismiss the case.

SECOND: Dr. Gillard

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED/FAILED.

3. MD-14-0895A, S. JAFFREY KAZI, M.D., LIC. #31610

Dr. Kazi and Attorney Steve Myers addressed the Board during the call to public. Board staff summarized that Dr. Kazi deviated from the standard of care by failing to notify the patient of the abnormal pathology report and failing to treat lymphocytic colitis and Dr. Kazi conceded that he failed to follow-up.

Dr. Gillard questioned the treatment for lymphocytic colitis and stated that he was concerned about the timeliness of Dr. Kazi signing off on the records and noted Mr. Myers statement that there is no specific law that requires signing off on the records within a given time frame. Board members noted that there was a positive result. Additionally, there should have been proper notification to the patient; however, it was mitigating that the patient missed their follow-up appointment.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Fromm

VOTE: 9-yay, 1-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

4. MD-14-0710A, MARK E. ROGERS, M.D., LIC. #29456

Dr. Paul observed that Dr. Rogers was cited by the West Virginia Board for allowing his PA to write prescriptions without receiving prescription writing privileges from the West Virginia Board. Dr. Paul stated that Dr. Rogers had worked with the PA for some time in the clinic and agreed to become his supervising physician. Dr. Paul commented that the paperwork had not been processed by the facility due to a systems issue and recommended dismissal.

MOTION: Dr. Paul moved for dismissal.

SECOND: Dr. Gillard

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

5. MD-14-0706A, MANUEL CHEE, M.D., LIC. #11024

Dr. Perry stated that he knows Dr. Chee, but that it would not affect his ability to adjudicate the case.

Dr. Gillard summarized that the complaint alleged that the wrong lesion was biopsied. Dr. Gillard noted that the patient had two lesions on the same shoulder, the patient directed the physician to the wrong lesion to biopsy, and once the physician realized the error, he attempted to have the patient return. Dr. Gillard noted that he found it mitigating that the biopsy was appropriate as it could have been malignant and moved for dismissal. Dr. Fromm supported the motion and questioned how the physician could biopsy the appropriate lesion if he could not rely on the patient to properly identify the lesion of concern.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Fromm

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

6. MD-14-0621B, PIERRE C. GILLES, M.D., LIC. #11263

Dr. Perry and Ms. Salter stated that they know Dr. Gilles, but that it would not affect their ability to adjudicate the case.

Dr. Gillard summarized that the patient had a hepatic adenoma, which later ruptured during pregnancy. Dr. Gillard questioned the fault of Dr. Gilles since he informed the patient he did not do liver surgery and recommended stopping the birth control pills, which seems appropriate.

Board staff clarified that Dr. Gilles did advise the patient that should she need an operation she should see a hepatic surgeon, but he did not refer her to one. Board staff also noted that the patient's mass was 11cm, which Dr. Gillard commented was a fairly large mass. Dr. Perry stated that the lesion was so large that the patient should have

been referred. Dr. Paul noted that all the physicians involved in her care were notified; however, no one acted aggressively to do anything.

MOTION: Dr. Gillard moved to issue an Advisory Letter for failure to refer the patient to a hepatic surgeon and for failure to counsel the patient regarding the significant risks associated with pregnancy. There is insufficient evidence to support disciplinary action.

SECOND: Dr. Paul

VOTE: 10-yay, 0-nay, 0-abstain, 0-recuse, 2-absent.

MOTION PASSED.

7. MD-14-1095A, MITCHELL T. GADOW, M.D., LIC. #40976

Dr. Gillard questioned the use of medication for the patient and noted that when the patient went to the ER from the office with shortness of breath, he was found to have congestive heart failure and renal failure. Dr. Gillard commented that the action should go beyond an advisory letter as Dr. Gadow failed to address the patient's elevated blood pressure and recommended CME. Dr. Paul commented that sending a patient to walk across the street with an elevated blood pressure and shortness of breath was bothersome and the patient should have been transferred immediately with EMS.

MOTION: Dr. Gillard moved to issue an Advisory Letter for insufficiently aggressive evaluation and management of hypertension. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Brister

VOTE: 10-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Gillard moved to issue an Order for Non-Disciplinary CME. Within six months, complete a minimum of 15 hours of Board staff pre-approved Category 1 CME in an intensive, in-person courses regarding hypertension, hypertensive emergencies, and renal disease. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Ms. Brister

VOTE: 10-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

8. MD-14-1145A, BIREN G. PATEL, M.D., LIC. #26753

Dr. Patel addressed the Board during the call to the public.

RESOLUTION: Issue an Advisory Letter for failing to identify the right renal artery when placing clips to control bleeding during an adrenalectomy in a patient who has undergone removal of the other kidney. There is insufficient evidence to support disciplinary action.

9. MD-14-0397A, BRANDON K. SUEDEKUM, M.D., LIC. #35451

RESOLUTION: Issue an Advisory Letter for failure to generate a medical record and for failure to conduct a physical examination on someone for whom he is prescribing prescription medications. There is insufficient evidence to support disciplinary action.

10. MD-15-0413A, RICHARD S. TOON, M.D., LIC. #28166

Dr. Gillard questioned whether the Board has to take action if Dr. Toon was censured in Kansas for not reporting that he was no longer the PA's supervising physician, noting that Arizona's statutes do not require the same reporting of supervising physicians. Ms. Bain inquired whether there is a submission requirement and Ms. Smith stated that supervising physicians have to report modifications to their PA's prescribing authority but not the agreement with the PA itself.

MOTION: Dr. Gillard moved for dismissal.
SECOND: Dr. Farmer

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

11. MD-14-0647A, JIANWEN WU, M.D., LIC. #35127

RESOLUTION: Issue an Advisory Letter for unnecessary initiation of antibiotics, for an inadequate examination, and for inadequate medical records.

12. MD-14-0926A, RICHARD M. ERNST, M.D., LIC. #30818

Dr. Ernst spoke during the call to the public. Ms. Salter stated she knows Dr. Ernst, but that it would not affect her ability to adjudicate the case.

Dr. Berg summarized the patient's treatment and noted confusion regarding the patient's use of alprazolam. Dr. Berg commented that her symptoms were reasonable to consider that she had too much benzodiazepines and didn't feel her presentation was straight forward and moved for dismissal.

MOTION: Dr. Berg moved for dismissal.
SECOND: Dr. Fromm
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

13. MD-14-0937A, WILSON N. OTERO, M.D., LIC. #44063

RESOLUTION: Issue an Advisory Letter for inadequate documentation. There is insufficient evidence to support disciplinary action.

14. MD-14-1005A, BALBIR C. SHARMA, M.D., LIC. #14499

Ms. Salter stated she knows Dr. Sharma, but that it would not affect her ability to adjudicate the case.

Dr. Gillard summarized that the patient was charged cash for a psychiatry visit then the insurance was billed. Dr. Gillard noted the investigators concern about fraud, but stated that he would like to wait to see the outcome of the criminal investigation to see if further action needs to be taken.

MOTION: Dr. Gillard moved to table the current case until the Blue Cross Blue Shield investigation is complete.
SECOND: Ms. Bain
VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

15. This matter was removed from the Board's agenda.

16. MD-14-0560A, TERRENCE T. CROWDER, M.D., LIC. #41364

RESOLUTION: Issue an Advisory Letter for inadequate supervision of a PA. There is insufficient evidence to support disciplinary action.

17. MD-14-1013A, ERNESTO R. CRUZ, M.D., LIC. #26508

RESOLUTION: Issue an Advisory Letter for soliciting an act of prostitution. While the licensee has demonstrated substantial compliance through remediation that has mitigated the need for disciplinary action, the Board believes that repetition of the activities that led to the investigation may result in further Board action against the licensee.

18. MD-14-1291A, ALICIA K. GUICE, M.D., LIC. #28062

Board staff summarized that the case resulted from a malpractice settlement that alleged failure to timely provide test results with a delay in diagnosis. The consultant who

reviewed the case noted that there was no documentation of the patient being informed of the abnormal results.

Dr. Gillard noted that the patient's August 8, 2007 diagnostic mammogram states that the mammogram was performed to obtain a better look since the mammogram done seven days prior was abnormal. Dr. Gillard commented that he found it hard for the patient to say that they were not advised of the abnormal results when they were sent for a follow up mammogram and moved for dismissal. Board members commented that it is standard to document that the physician has a discussion of abnormal results and questioned the completeness of the medical records.

MOTION: Dr. Gillard moved for dismissal.

SECOND: Dr. Figge

VOTE: 10-yay, 1-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

19. MD-14-1595A, JAMES C. MARSH, M.D., LIC. #43999

RESOLUTION: Issue an Advisory Letter for shoplifting from a retail store and for failure to timely report the charge to the Board. There is insufficient evidence to support disciplinary action.

20. MD-13-0968B, CARMELO A. ECHEVERRIA, M.D., LIC. #34090

RESOLUTION: Issue an Advisory Letter for failing to see and evaluate a patient with a hand injury for whom x-rays were ordered and for failure to schedule timely follow up. There is insufficient evidence to support disciplinary action.

21. MD-14-0587A, CECIL C. GRAHAM, M.D., LIC. #30345

Dr. Gillard stated that he agreed with the recommendation for an advisory letter but was concerned that the physician may be creating treatment and records that can influence litigation. Dr. Gillard moved to send the case back for further investigation to do a chart review to determine whether there is a pattern of stretching diagnosis for litigation.

MOTION: Dr. Gillard moved to return the case for further investigation to perform a random chart review.

SECOND: Dr. Berg

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

22. MD-14-1037A, HERNAN MEDINA, M.D., LIC. #30853

Ms. Salter stated she knows Dr. Medina, but that it would not affect her ability to adjudicate the case.

RESOLUTION: Issue an Advisory Letter for restarting Imuran for a patient who is recovering from pancreatitis without clearance from the patient's gastroenterologist. There is insufficient evidence to support disciplinary action.

23. MD-14-1042A, JEFFREY R. GUNTER, M.D., LIC. #25962

Attorney Christine Cassetta addressed the Board during the call to the public on behalf of Dr. Gunter.

RESOLUTION: Issue an Advisory Letter for illegible medical records. There is insufficient evidence to support disciplinary action.

24. MD-14-1093A, FRANK E. LANE, M.D., LIC. #45915

RESOLUTION: Issue an Advisory Letter for prescribing Naltrexone to a patient who was also given an ongoing prescription for opioids. There is insufficient evidence to support disciplinary action.

25. MD-14-1542A, VIJAY GILL, M.D., LIC. #22590

RESOLUTION: Issue an Advisory Letter for charging for services not rendered. There is insufficient evidence to support disciplinary action.

26. MD-14-0671B, GLENN C. HUNTER, M.D., LIC. #17199

RESOLUTION: Issue an Advisory Letter for failing to modify antibiotic coverage when culture results showed an infection which was resistant to the antibiotic prescribed. There is insufficient evidence to support disciplinary action.

R. CASES RECOMMENDED FOR ADVISORY LETTERS WITH NON-DISCIPLINARY CONTINUING MEDICAL EDUCATION ORDERS

1. MD-14-1049A, HELEN E. WATT, M.D., LIC. #22016

Board staff summarized that Dr. Watt was found to have engaged in false fraudulent, deceptive, or misleading advertising, failed to appropriately supervise a nurse, and lent her name and credentials to give credibility to a procedure that is not FDA approved to a physician not licensed in Arizona.

Dr. Gillard commented that Dr. Watt has previously received three Letters of Reprimand by the Board and noted that he found it mitigating that the nurse owner actually put her name on the advertisement and circulated it so he moved to accept the Advisory Letter per SIRC's recommendation.

MOTION: Dr. Gillard moved to issue an Advisory Letter for allowing false advertising claiming FDA approved injection lipolysis, inadequate supervision of a nurse. While the licensee has demonstrated substantial compliance through remediation that has mitigated the need for disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against the licensee. In addition to the issuance of an Advisory Letter, issue an Order for Non-Disciplinary CME. Within six months, complete a minimum of 10 hours of Board staff pre-approved Category I CME in an intensive, in-person course for ethics. The CME hours shall be in addition to the hours required for license renewal.

SECOND: Dr. Berg

Dr. Farmer spoke against the motion and other Board members questioned whether the case requires further investigation and/or an interview with Dr. Watt.

Dr. Gillard withdrew his motion.

MOTION: Dr. Farmer moved to return the case for further investigation. At the conclusion of the additional investigation, the physician shall be invited to appear before the Board for a Formal Interview.

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

S. REVIEW OF EXECUTIVE DIRECTOR DISMISSALS

MOTION: Dr. Fromm moved to uphold the dismissal in item numbers 1-7.

SECOND: Dr. Paul

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-14-1537A, TYLER C. COLLINS, M.D., LIC. #48053

RESOLUTION: Uphold the dismissal.

2. MD-14-1607A, ALAN M. BORNSTEIN, M.D., LIC. #26093

RESOLUTION: Uphold the dismissal.

3. MD-14-0705A, KEVIN A. FUCIARELLI, M.D., LIC. #29740

RESOLUTION: Uphold the dismissal.

4. MD-15-0223A, ANANYA DAS, M.D., LIC. #33355
EP addressed the Board during the call to the public.

RESOLUTION: Uphold the dismissal.

5. MD-14-1337A, THOMAS L. GILLESPIE, M.D., LIC. #29344
RESOLUTION: Uphold the dismissal.

6. MD-13-1455A, RUSSELL G. COHEN, M.D., LIC. #25011
RESOLUTION: Uphold the dismissal.

7. MD-14-1610B, JAMES W. BAIRD, M.D., LIC. #28720
RESOLUTION: Uphold the dismissal.

T. PROPOSED CONSENT AGREEMENTS (Disciplinary)

1. MD-15-0145A, ROBERT F. GRAVES, M.D., LIC. #14303
Board staff summarized that Dr. Graves' disclosed on his renewal application that he voluntarily resigned his hospital privileges in lieu of investigation at a Nebraska hospital. The Nebraska Board reviewed the hospital issue and entered into a settlement agreement with Dr. Graves where he was ordered to pay a civil penalty and complete a disruptive physician course.

MOTION: Dr. Gillard moved to accept the proposed Consent Agreement for Decree of Censure.

SECOND: Dr. Krahn

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Board members directed staff to reagendaize this matter on the next Regular Session Meeting agenda for consideration of Dr. Graves' license renewal application.

2. MD-14-1287A, ANTHONY V. DALLAS, M.D., LIC. #43953
Board staff summarized that Dr. Dallas was suspended, placed on probation, and restricted by the Mississippi Medical Board for inappropriately prescribing controlled substances.

MOTION: Dr. Berg moved to accept the proposed Consent Agreement for Letter of Reprimand.

SECOND: Ms. Brister

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

3. MD-14-0934A, CHARLES W. GERVAIS, M.D., LIC. #23334
Board staff summarized that Dr. Gervais' license was restricted by the Ontario Medical Board. This case was considered by the Board at its February 2015 Regular Session Meeting and sent back for further investigation to determine whether Dr. Gervais' had taken any remedial action to reinstate his Ontario license. Board staff found that Dr. Gervais has not been able to lift the restriction due to not finding a radiologist willing to sign off on his competence in interpreting CT exams. Board staff also noted that the Ontario Board does not label the restriction as a disciplinary action.

MOTION: Dr. Berg moved to accept the proposed Consent Agreement for Probation. The Probation shall include a practice restriction prohibiting the physician from interpreting or supervising the interpretation of CT scans for patients in Arizona until he satisfies the Ontario Board's Order. Dr. Gervais may apply for the Board to terminate his Probation after obtaining a release from the Ontario Board's Order.

SECOND: Ms. Brister

Dr. Perry commented that this occurred in Canada and questioned whether the Board was obligated to act on actions that occur outside of the country. Ms. Smith commented that the statute is broad enough to encompass actions in and outside of the country.

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

4. MD-14-0815A, NAVNEET N. SHARDA, M.D., LIC. #27157

Board staff summarized that Dr. Sharda reported being investigated by the Nevada Medical Board in three different instances, which resulted in action against his Nevada license for concerns regarding medical recordkeeping. Board staff further reported that Dr. Sharda received two disciplinary orders for action taken by the State of Nevada.

MOTION: Dr. Farmer moved to accept the proposed Consent Agreement for Decree of Censure.

SECOND: Ms. Salter

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

U. LICENSE APPLICATIONS

i. APPROVE OR DENY LICENSE APPLICATION

MOTION: Dr. Figge moved to approve license applications in item numbers 1-4, 6-10, 12, 14, 16-20, 22, and 23.

SECOND: Dr. Krahn

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-15-0874A, LORNE P. SCHLECHT, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

2. MD-15-0703A, LAURIE A. DAWSON, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

3. MD-15-0871A, KRISTEN R. WILLIAMS, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

4. MD-15-0870A, TIMOTHY H. TRONE, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

5. MD-15-0745A, ELIKA HOSS, M.D., LIC. #N/A
Dr. Gillard stated that this applicant was charged with using a fake ID when she was 19 years old and noted that she failed to answer affirmatively on the application. Dr.

Gillard commented that the Board has issued Advisory Letters along with approving the license in the past and moved to grant the license with an Advisory Letter for failing to disclose the arrest on her application.

MOTION: Dr. Gillard moved to grant the license and issue an Advisory Letter for failing to answer in the affirmative regarding an arrest. The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action.

SECOND: Ms. Salter

Dr. Perry questioned whether the physician has to report a conviction that is overturned. Board staff explained that Dr. Hoss did fail to disclose the charge but she reported that it was due to her belief that it did not fall under moral turpitude.

VOTE: 8-yay, 3-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

6. MD-15-0796A, THOMAS J. KROLICK, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

7. MD-15-0788A, RICK W. OBRAY, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

8. MD-15-0873A, SHERRY D. DEKEYSER, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

9. MD-15-0895A, GABRIEL M. RICE, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

10. MD-15-0746A, MICHAEL G. WATERS, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

11. MD-15-0723A, NICHOLAS J. PEREZ, M.D., LIC. #N/A
Dr. Gillard discussed Dr. Perez's "Yes" answers on his application, noted his participation in Colorado Physician Health Program ("PHP"), and moved to grant the license upon an assessment and recommendations of the Board's PHP contractor.

MOTION: Dr. Gillard moved to grant the license contingent upon a PHP assessment and following the recommendations of the Board's PHP Contractor.

SECOND: Dr. Krahn

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

12. MD-15-0837A, SAURABH JAUHARI, M.D., LIC. #N/A
RESOLUTION: Approve the license application.

13. MD-15-0588A, DAVID J. JOSWICK, M.D., LIC. #N/A
Dr. Gillard questioned Dr. Joswick's PHP participation in another state and Board staff reported that Dr. Joswick had completed PHP in 2013.

MOTION: Dr. Gillard moved to grant the license.

SECOND: Dr. Fromm

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.
MOTION PASSED.

14. MD-15-0400A, LISA A. BAEZA, M.D., LIC. #N/A
Dr. Baeza and Attorney Kraig Marton addressed the Board during the call to the public.

RESOLUTION: Approve the license application.

15. MD-15-0924A, REBECCA PRATITI, M.D., LIC. #N/A

Board staff summarized that Dr. Pratiti's residency program disclosed that in 2013, she was placed in "observed" status for three months during her intern year due to a lack of professionalism and deficient communication and interpersonal skills; however, she subsequently completed training in June 2015. Board staff also noted that Dr. Pratiti disclosed a health issue, which was available for the Board's review. Dr. Gillard commented that the Board received a letter from her physician dated last July and he would like a PHP evaluation prior to issuing a license.

MOTION: Dr. Gillard move to grant the license contingent upon evaluation by the Board's PHP Contractor.

SECOND: Ms. Bain

Dr. Krahn questioned whether PHP was necessary noting that the letter provided by the physician was recent. Dr. Gillard commented that the letter was recent; however, the issue seemed rather profound. Dr. Farmer agreed that the letter was straightforward and spoke against the motion. Dr. Gillard modified his motion to grant the license without a PHP evaluation.

MOTION: Dr. Gillard moved to grant the license.

SECOND: Ms. Bain

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

16. MD-15-0906A, GARY J. CURCIO, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

17. MD-15-0908A, RANDAL J. LEWIS, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

18. MD-15-0866A, ALISHA D. BOGUS, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

19. MD-15-0658A, LEONARD R. DUPREE, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

20. MD-15-0802A, VALERIE MATTHEW, M.D., LIC. #N/A

RESOLUTION: Approve the license application.

21. MD-15-0893A, NISARG A. SHETH, M.D., LIC. #N/A

Dr. Gillard questioned the requirements for foreign medical graduates noting that Dr. Sheth finished 35 months of training with the program approval rather than 36 months and inquired whether the Board is bound by the 36 month requirement. Ms. Smith directed the Board to the statutes that give the Board the ability to waive that requirement.

MOTION: Dr. Gillard moved to grant the license.

SECOND: Ms. Brister

VOTE: 9-yay, 1-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

ii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND CONSIDERATION OF RECOMMENDED DISMISSAL OF PENDING INVESTIGATION

1. MD-15-0184A, PETER J. MATTHEWS, M.D., LIC. #18945

Board staff summarized that Dr. Matthews disclosed on his renewal application that he voluntarily resigned his hospital privileges due to violating a stipulation agreement that required him to refrain from disruptive conduct. Board staff noted that Dr. Matthews had been counseled regarding his behavior and complaints from staff from 2001 to his resignation in 2013.

Dr. Paul commented that Dr. Matthews' behavior does involve patient care because when physicians misbehave, teams do not function and it can affect care. Dr. Berg agreed and commented that there is literature that disruptive behavior does effect patient care and was concerned that Dr. Matthews attended a PACE program but failed to change his behavior. Ms. Saulter questioned whether Dr. Matthews has attempted to change his behavior. Board members questioned whether probation or an interview would be appropriate in this case. Ms. Bain considered whether tabling the renewal and inviting Dr. Matthews a formal interview would be appropriate.

MOTION: Ms. Bain moved to invite the physician to appear before the Board for a Formal Interview

There was no seconder to this vote; therefore, the motion failed.

Dr. Farmer commented that the Board should not become the behavior police but there may be cases that warrant action depending on the egregiousness of the behavior and its impact on patient care and he would support the case undergoing further reviewed by staff. Board members inquired about the formal interview and issues surrounding the notice of potential violations. Ms. Smith requested that the matter be tabled to allow time for review of possible action to take.

MOTION: Ms. Bain moved to table this matter.

SECOND: Ms. Salter

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

MOTION PASSED.

Ms. Smith stated that the Board could send the case back for further investigation or they could invite Dr. Matthews for a formal interview noticing him on potential violations. Dr. Perry inquired whether staff could interview Dr. Matthews without consideration of potential violations and Ms. Smith reported that the staff has the ability to interview Dr. Matthews without noticing him on the potential violations and could bring the case back to the Board for further consideration.

MOTION: Ms. Bain moved to return the case for further investigation to allow the physician to present for an informal interview with Board staff and return the case to the Board at its next regularly scheduled meeting to review the results of the continued investigation.

SECOND: Dr. Farmer

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-15-0285A, FRANK L. PARKER, M.D., LIC. #14360

Board staff summarized that Dr. Parker disclosed on his renewal application that he took a leave of absence due to health issues from St. Joseph's Medical Center and subsequently they would not reappointment his privileges because he had not completed enough cases. St. Joseph's provided correspondence, which reported that Dr. Parker had privileges in good standing; however, due to low utilization he became inactive. Board staff also received letters from Dr. Parker's treating providers reporting that he is safe to practice.

MOTION: Dr. Gillard moved to grant the license renewal and dismiss the investigation.

SECOND: Dr. Krahn

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

Dr. Perry commented that this low utilization issue may need to be agendaized for the offsite meeting. Ms. McSorley noted that the rule package would address the issue.

3. MD-15-0692A, LINDA E. STILES, M.D., LIC. #47982

Board staff summarized that Dr. Stiles reported that she had action taken against her by the Oregon Medical Board.

MOTION: Dr. Figge moved to grant the license renewal and dismiss the investigation.

SECOND: Dr. Berg

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

4. MD-15-0722A, VIPUL V. PAREKH, M.D., LIC. #46671

Board staff summarized that Dr. Parekh reported on his renewal application that he had action taken by the Kentucky Board for failing to disclose that he had academic probation during training.

Dr. Gillard inquired whether Dr. Parekh withdrew or had been dismissed from the University of Louisville and Board staff reported that Dr. Parekh withdrew from the school and chose to go elsewhere. Dr. Perry questioned whether the school Dr. Parekh graduated from was accepted by Arizona.

MOTION: Dr. Farmer moved to table the matter.

SECOND: Dr. Krahn

VOTE: 11-yay, 0-nay, 0-recuse, 0-abstain, 1-absent.

MOTION PASSED.

Ms. McSorley explained that the statute requires that unapproved medical school graduates obtain an ECFMG certification and verification of 36 months of post-graduate training, which the Board did obtain for Dr. Parekh indicating that he was vetted prior to licensure.

MOTION: Dr. Farmer moved to grant the license renewal and dismiss the investigation.

SECOND: Dr. Paul

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

iii. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND CONSIDERATION OF RECOMMENDED ADVISORY LETTER

1. MD-15-0690A, ROBERT S. SMITH, M.D., LIC. #42775

Board staff summarized that Dr. Smith reported that he had action taken by the Alaska Board for failing to disclose multiple licenses on his Alaska application for licensure.

MOTION: Dr. Berg moved to grant the renewal and issue an Advisory Letter for action taken by the State of Alaska. There is insufficient evidence to support disciplinary action.

SECOND: Ms. Brister

Dr. Krahn noted that Dr. Smith has fifty medical licenses. Ms. Bain questioned whether the physician had any other state actions or history and Dr. Fromm commented that this may not be a violation in the Board's jurisdiction. Ms. McSorley

informed the Board that there is no requirement for the reporting of their licenses on the renewal as that information is requested on the initial application for licensure.

Dr. Berg noted that Dr. Smith holds fifty licenses and withdrew his motion.

MOTION: Dr. Berg moved to grant the license renewal and dismiss the investigation.

SECOND: Ms. Brister

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

iv. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING RENEWAL APPLICATION AND REQUEST FOR BOARD DIRECTION

MOTION: Dr. Berg moved to grant the renewal in item numbers 2-11.

SECOND: Ms. Salter

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

1. MD-15-0697A, FLORINELA G. OPRESCU, M.D., LIC. #32780

Board staff summarized that Dr. Oprescu answered "Yes" to a confidential question.

MOTION: Dr. Gillard moved to grant the renewal.

SECOND: Dr. Berg

Dr. Farmer commented that if someone has a condition affecting their ability to practice and exercises good judgement in not practicing while they have those conditions he would support the renewal of the license.

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

2. MD-15-0662A, DENISE C. DITTEMORE, M.D., LIC. #22383

RESOLUTION: Grant the renewal.

3. MD-15-0693A, INGRID E. HAAS, M.D., LIC. #13329

RESOLUTION: Grant the renewal.

4. MD-15-0664A, J. SPENCER THOMPSON, M.D., LIC. #21580

RESOLUTION: Grant the renewal.

5. MD-15-0666A, DAVID W. CAMPBELL, M.D., LIC. #9422

RESOLUTION: Grant the renewal.

6. MD-15-0685A, DIANE T. PAPKE, M.D., LIC. #32957

RESOLUTION: Grant the renewal.

7. MD-15-0317A, DOUGLAS A. ANDERSON, M.D., LIC. #16123

RESOLUTION: Grant the renewal.

8. MD-15-0416A, SUDHIR RANJAN, M.D., LIC. #13308

Attorney Steve Myers addressed the Board during the call to the public on behalf of Dr. Ranjan.

RESOLUTION: Grant the renewal.

9. MD-15-0827A, GORDON G. WINGARD, M.D., LIC. #28441

RESOLUTION: Grant the renewal.

10. MD-15-0824A, LESLEY PETRICH, M.D., LIC. #16891

RESOLUTION: Grant the renewal.

11. MD-15-0414A, DEVYANI S. RAVAL, M.D., LIC. #19390

RESOLUTION: Grant the renewal.

v. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING APPLICANT'S REQUEST FOR WAIVER OF PRIMARY SOURCE REQUIREMENT

1. CHRISTOPHER A. JOHNER, M.D.

Board staff summarized that Dr. Johner was employed at the University of Kentucky and Board staff attempted to get verifications for his privileges and employment; however, the human resources department would not provide the primary source information to the Board unless a fee was paid.

Ms. Bain requested clarification on whether the Board has the ability to get reimbursed for the fee and Ms. Smith stated that the Board does not have a fee set in statute that pertains to reimbursement.

MOTION: Dr. Gillard moved to grant the request for waiver of primary source requirement.

SECOND: Dr. Fromm

VOTE: 10-yay, 0-nay, 1-abstain, 0-recuse, 1-absent.

MOTION PASSED.

ACTION ON CASE(S)

V. APPROVAL OF DRAFT FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

1. MD-14-0110A, ROB F. SCHUSTER, M.D., LIC. #35558

Dr. Perry was recused from this matter.

MOTION: Dr. Fromm moved to approve the draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and Two Year Probation to participate in PHP.

SECOND: Dr. Krahn

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, Dr. Paul, and Ms. Salter. The following Board member was recused: Dr. Perry. The following Board member was absent: Mr. Gerding

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

2. MD-14-0019A, MARK G. WEBB, M.D., LIC. #19868

Ms. Salter was recused from this matter.

MOTION: Dr. Gillard moved to approve the draft Findings of Fact, Conclusions of Law and Order for Letter of Reprimand and One Year Probation. The Probation shall include periodic chart reviews. Dr. Webb may petition the Board to terminate the Probation after two consecutive favorable chart reviews.

SECOND: Dr. Berg

ROLL CALL: Roll call vote was taken and the following Board members voted in favor of the motion: Dr. Perry, Dr. Gillard, Ms. Bain, Dr. Berg, Ms. Brister, Dr. Farmer, Dr. Figge, Dr. Fromm, Dr. Krahn, and Dr. Paul. The following Board member was recused: Ms. Salter. The following Board member was absent: Mr. Gerding.

VOTE: 10-yay, 0-nay, 0-abstain, 1-recuse, 1-absent.

MOTION PASSED.

OTHER BUSINESS

W. REQUEST FOR MODIFICATION OF BOARD ORDER

1. MD-10-0395A and MD-10-0884A, TERESA L. JACKSON, M.D., LIC. #32627

Board staff explained that Dr. Jackson is requesting an extension of the deadline to pay the \$10,000 civil penalty due to financial hardship.

Dr. Gillard noted that the Board did grant a prior extension and recognized the financial hardship and reasoning for Dr. Jackson requesting permission to make monthly payments and moved to grant the request.

MOTION: Dr. Gillard moved to grant the request for Board Order modification to allow the physician an extended period of time to make monthly payments of \$1,000 towards the previously issued Civil Penalty, to be paid in full within one year from August 5, 2015.

SECOND: Dr. Farmer

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

X. REVIEW, DISCUSSION AND POSSIBLE ACTION REGARDING BOARD ORDER

1. MD-14-0230A, MARK R. AUSTEIN, M.D., LIC. #14196

Dr. Austein addressed the Board during the call to public.

Dr. Perry noted that supplemental material was received and asked Board members to affirm that they reviewed the additional information. Kathleen Muller presented this case to the Board regarding Dr. Austein's request to vacate an Interim Consent Agreement for Practice Limitation. Ms. Muller reported that the Board received notification that Dr. Austein may have been impaired during a site inspection conducted by Board staff at his home office. Dr. Austein had previously entered into a Consent Agreement for License Reactivation and Probation for 5 years, which terminated in 2013. Ms. Muller stated that on April 10, 2015, Dr. Austein was referred to the Physician Health Program ("PHP") Contractors, Greenberg and Sucher, PC, in order to undergo an assessment. David Greenberg, M.D., reported that the PHP Contractors were concerned that Dr. Austein had previously completed two long-term treatment programs and had previously been involved in 10 years of monitoring within the PHP. Dr. Greenberg explained that Dr. Austein sought care for painful knee issues with multiple doctors who prescribed multiple controlled substances to him. A review of a Controlled Substances Prescription Monitoring Program ("CSPMP") query led to the revelation that the multiple providers may not have known that Dr. Austein was receiving controlled substances from other sources, including his colleagues. Dr. Greenberg reported that it was recommended that Dr. Austein enter into a treatment program with the specific instruction that Dr. Austein be detoxed before returning to the PHP for reevaluation. Dr. Austein entered into treatment at CeDAR in Colorado; however, he did not receive detoxification treatment. Dr. Greenberg noted that CeDAR had concerns about Dr. Austein's overall judgement. Dr. Greenberg reported that the PHP Contractors ultimately recommended that Dr. Austein enroll with the PHP under strict guidelines and that he not return to practice immediately and rather be monitored for at least another 90 days.

Ms. Bain questioned why this matter was being brought forth at this time considering Dr. Austein already signed an Interim Consent Agreement for participation in the PHP. Ms. McSorley clarified that Dr. Austein was currently under a Practice Limitation which was executed at or around the time he went into the treatment program. Ms. McSorley explained that subsequent to Dr. Austein completing an evaluation, it was determined that the Practice Limitation should not be lifted. Ms. McSorley noted that the purpose of bringing the case forward to the Board was to consider Dr. Austein's request that the Practice Limitation be lifted and to review the Interim Consent Agreement for participation in the PHP.

AAG Smith clarified that the most recent Interim Consent Agreement did not state that Dr. Austein should not practice medicine in the general sense, but rather that he shall not

practice medicine in a solo setting and is prohibited from seeing patients at his home. AAG Smith stated that should the Board decide to lift the full Practice Limitation, Dr. Austein has signed an Interim Consent Agreement to participate in the PHP. AAG noted that a licensee who signs an Interim Consent Agreement is not allowed to un-sign a document, but it is not effective until signed by the Executive Director. Ms. McSorley noted that Board staff wishes to have the initial Practice Limitation remain in effect.

Dr. Gillard questioned Board staff regarding other allegations made in the case. Ms. Muller stated that the investigation is ongoing and that there were two other cases that were under review as well.

MOTION: Dr. Farmer moved to deny the physician's request to vacate the July 10, 2015 Interim Consent Agreement for Practice Limitation and Assessment for case MD-14-0230A.

SECOND: Dr. Gillard

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

MOTION: Dr. Perry moved to adjourn the meeting.

SECOND: Salter

VOTE: 11-yay, 0-nay, 0-abstain, 0-recuse, 1-absent.

MOTION PASSED.

The meeting adjourned at 6:57 p.m.




Patricia E. McSorley, Executive Director